

Message Text

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72

ACTION EB-11

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TAGS: EFIN, CA

SUBJECT: REQUEST FOR INFORMATION ON FOREIGN REGULATION OF
FOREIGN BANKS

REF: A) STATE A-1911; B) STATE 170351; C) MONTREAL 1249;
D) TORONTO A-15

1. EMBASSY POUCHING TO EB/IFD/OMA PERTINENT SECTIONS (52 TO 57 AND 75) OF CANADIAN BANK ACT C-22 OF MARCH 1967 WHICH GOVERN FOREIGN BANKING OPERATIONS IN CANADA. SECTIONS 52 TO 57 ARE GENERAL REGULATIONS ON NON-CANADIAN OWNED OPERATIONS AND SECTION 75 2G WAS SPECIFICALLY DESIGNED TO RESTRICT MERCANTILE BANK (REF C), SOLE US-CONTROLLED BANK IN CANADA.

2. BANK ACT PROVIDES THAT ONLY 10 FEDERALLY CHARTERED BANKS LISTED IN SCHEDULE A OF ACT CAN CALL THEMSELVES BANKS AND DO RETAIL BANKING BUSINESS. THESE ARE NOW ROYAL BANK, NOVA SCOTIA BANK, MONTREAL BANK, TORONTO-DOMINION BANK, CANADIAN IMPERIAL BANK OF COMMERCE, BANQUE PROVINCIALE, BANQUE CANADIENNE NATIONALE, MERCANTILE BANK OF CANADA, BANK OF BRITISH COLUMBIA

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AND UNITY BANK OF CANADA.

3. THE ACT LIMITS THE TRANSFER OF SHARES OF CAPITAL STOCK OF BANKS TO NON-RESIDENTS OF CANADA (DEFINED INTER ALIA AS A CORPORATION ORGANIZED ELSEWHERE THAN IN CANADA) TO NOT MORE THAN 25 PERCENT OF THE TOTAL ISSUED.

4. SEVERAL US BANKS LISTED IN THE NOVA SCOTIA BANK'S STUDY (REF D) OF FOREIGN BANKING IN CANADA HAVE CANADIAN SUBSIDIARIES ENGAGED IN FACTORING, LEASING, LENDING AND BORROWING OPERATIONS BUT CANNOT CALL THEMSELVES BANKS. ACCORDING TO SEVERAL CANADIAN BANKING SOURCES, COMMENTING TO THE PRESS SHORTLY AFTER RELEASE OF THE STUDY IN MAY, FOREIGN-CONTROLLED BANK SUBSIDIARIES ARE PARTICULARLY ACTIVE IN THE SHORT-TERM MONEY MARKET AND HAVE OUTSTANDING BORROWINGS IN CANADA OF MORE THAN \$1.4 BILLION OF TOTAL SHORT-TERM MARKET OF \$14 BILLION. CANADIAN BANKING SOURCES ESTIMATED THAT THERE ARE OVER 100 FOREIGN BANK SUBSIDIARIES NOW IN CANADA WITH MOST OF THEM HAVING BECOME OPERATIONAL IN PAST YEAR. REPS OF J.P. MORGAN OF CANADA LIMITED RECENTLY INFORMED EMBASSY THAT MORGAN HAS BEUN TO OFFER FOREIGN EXCHANGE FACILITIES TO CANADIAN CUSTOMERS IN ADDITION TO OTHER FINANCIAL ACTIVITIES.

5. CANADIAN BANKERS HAVE CRITICIZED 1967 BANK ACT, CLAIMING LEGISLATION DOES NOT COVER INDIRECT, NON-RETAIL BANKING ACTIVITIES ENGAGED IN BY FOREIGN BANK SUBSIDIARIES. THEY MAINTAIN THAT THEY AT A DISADVANTAGE SINCE BANK ACT CHARTERED BANKS MAY OWN ONLY 10 PERCENT OF TRUST OR LOAN COMPANY WHEREAS FOREIGN BANKS NOT BOUND BY SUCH LIMITATION. FOREIGN BANKS CAN INCORPORATE AS FINANCIAL INSTITUTIONS UNDER PROVINCIAL LAW AND ARE NOT BOUND TO MAINTAIN RESERVES OR CAPITAL-TO-DEBT RATIOS GOVERNING CHARTERED BANKS.

6. U.S. BANKS ESTABLISHING REPRESENTATIVE OFFICES AND SUBSIDIARIES IN CANADA HAVE MADE IT A PRACTICE TO KEEP BANK OF CANADA AND OTHER AUTHORITIES INFORMED LIMITED OFFICIAL USE

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OF THEIR ACTIVITES AND DO NOT APPEAR TO HAVE ENCOUNTERED RESISTANCE.

7. SINCE JUNE FOREIGN BANKING ISSUE HAS NOT BEEN SUBJECT OF MUCH PRESS ATTENTION. PARLIAMENT IS EXPECTED TO REVIEW BANK ACT IN 1975, AND SINCE CANADIAN BANKERS HAVE EXPRESSED SUCH STRONG CONCERN OVER LARGE INFLUX OF FOREIGN BANKS ENGAGED IN

ACTIVITIES NOT COVERED BY ACT, SOME NEW CONTROLS
WILL PROBABLY BE ENACTED. SPOKESMEN FOR FIRST
NORTHAMERICAN INVESTMENTS LTD., SUBSIDIARY OF
FIRST PENNSYLVANIA, AND FOR J.P. MORGAN OF
CANADA LTD. TOLD PRESS AFTER NOVA SCOTIA BANK
STUDY PUBLISHED THAT THEY WOULD HAVE "NO PROBLEM"
IN BEING REGULATED BY CANADIAN AUTHORITIES ON
SAME BASIS AS CANADIAN BANKS. THEY ALSO STATED
THAT THEY WOULD WELCOME RECIPROCITY AND THE
OPPORTUNITY TO TAKE DEPOSITS IN CANADA AND ACT
AS FULL BANKS.
PORTER

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